

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS &)	
ELECTRIC COMPANY AND KENTUCKY)	
UTILITIES COMPANY FOR CERTIFICATES OF)	
PUBLIC CONVENIENCE AND NECESSITY FOR)	CASE NO.
THE CONSTRUCTION OF A COMBINED)	2014-00002
CYCLE COMBUSTION TURBINE AT THE)	
GREEN RIVER GENERATING STATION AND A)	
SOLAR PHOTOVOLTAIC FACILITY AT THE)	
E.W. BROWN GENERATING STATION)	

ORDER

On April 7, 2014, Movant Bluegrass Generation Company (“Bluegrass Generation”) filed a motion requesting the Commission to rehear and reconsider the March 18, 2014 Order denying Bluegrass Generation’s petition to intervene. Bluegrass Generation contends that the March 18, 2014 Order contains certain erroneous findings. Specifically, Bluegrass Generation points out that it has the same interests and expertise in this proceeding as the Sierra Club, which has been granted intervention. Bluegrass Generation asserts that it is a significantly larger commercial customer of Louisville Gas and Electric Company (“LG&E”) than the Sierra Club member, who is a residential customer of LG&E, and that Bluegrass Energy has expertise in energy procurement, energy markets, and the determination of least-cost capacity options. Bluegrass Generation argues that the Commission acted arbitrarily and capriciously in denying its request for intervention without providing the reasons why Bluegrass Generation’s proffered interest in this matter is different from the Sierra

Club's proffered interest. Bluegrass Generation further contends that it was inappropriate for the Commission to consider its motive in requesting intervention in this matter because the Commission did not analyze the Sierra Club's motivation in granting the Sierra Club's petition to intervene. Given that Bluegrass Generation's customer status and ability to assist the Commission is at least similar to that of the Sierra Club, Bluegrass Generation argues, its intervention request should not have been treated differently from that of the Sierra Club. Lastly, Bluegrass Generation argues that it can offer information that otherwise would not be provided regarding the relative ratepayer impact of an alternative in which LG&E would purchase Bluegrass Generation compared with LG&E's entering into a purchase power agreement ("PPA") with Bluegrass Generation, or a scenario which would compare a PPA with Bluegrass Generation versus the LG&E proposed self-build option. Bluegrass Generation maintains that it is the only entity that could provide the underlying assumptions and possible alternatives to the analysis submitted by LG&E and Kentucky Utilities Company ("KU").

On April 14, 2014, LG&E and KU (collectively "Joint Applicants") filed a response, recommending that Bluegrass Generation's rehearing motion be denied. Joint Applicants contend that Bluegrass Generation's argument that it should be allowed intervention because of the similarity of interest and expertise with that of the Sierra Club is flawed. Joint Applicants assert that the Commission has already considered Bluegrass Generation's claimed special interest in this matter and experience in generation planning in the March 18, 2014 Order denying Bluegrass Generation's request for intervention. Joint Applicants argue that the critical difference between

Bluegrass Generation and Sierra Club is that Sierra Club is not an unsuccessful bidder. To allow Bluegrass Generation to intervene based on its generation-resource experience would enable every bidder to intervene because every bidder would have a similar expertise in generation-resource planning. Joint Applicants conclude that this would ultimately undermine the integrity of the competitive nature of the bidding process and frustrate the finality of such a process. Lastly, Joint Applicants contend that Bluegrass Generation has raised no new issue on rehearing other than its flawed comparison to Sierra Club.

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that Bluegrass Generation has failed to establish any grounds to justify granting a rehearing or reconsideration of the March 18, 2014 Order denying Bluegrass Generation's request for intervention. The Commission finds no merit in Bluegrass Generation's argument that it is similarly situated to Sierra Club. As Joint Applicants point out, there exists a significant difference between Bluegrass Generation and Sierra Club, in that Bluegrass Generation is an unsuccessful bidder to Joint Applicants' request for proposals ("RFP"), while Sierra Club is not an unsuccessful bidder.

This distinction between Bluegrass Generation and Sierra Club is critical particularly in light of the Kentucky Court of Appeals decision in *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289329 (Ky. App., Feb. 2, 2007). In affirming the Commission's denial of EnviroPower's request to intervene in a proceeding involving East Kentucky Power Cooperative, Inc.'s application for a certificate of public convenience and necessity to construct a new

generating facility, the Kentucky Court of Appeals held that, as a mere bidder in response to an RFP, EnviroPower had no vested interest that would entitle it to intervene in the Commission's proceedings. In the March 18, 2014 Order, the Commission expressly determined that Bluegrass Generation was an unsuccessful bidder to Joint Applicants' RFP and applied the *EnviroPower* standard in denying Bluegrass Generation's request to intervene in these proceedings. In particular, we concluded that "as an unsuccessful bidder, Bluegrass Generation has no vested or special interest in any issue before the Commission in this proceeding...."¹ Thus, we specifically determined that Bluegrass Generation lacked the necessary special interest in the matter at bar to permit it to intervene in the instant proceeding.

In now seeking rehearing, Bluegrass Generation acknowledges that "[i]ts sole interest is to provide the Commission information supporting the least cost option of Bluegrass's RFP proposal."² While the Commission welcomes such information from unsuccessful bidders, the proper method to submit such information is by way of comments, as we invited Bluegrass Generation to do by our March 18, 2014 Order. We note that another unsuccessful bid, Big Rivers Electric Corporation, did file comments in support of its bid on April 4, 2014, and we again encourage Bluegrass Generation to do the same. Bluegrass Generation has not raised any new issue in its motion for a rehearing to persuade us to reconsider our prior denial of Bluegrass Generation's request to intervene in this matter.

¹ March 18, 2014 Order, p. 6.

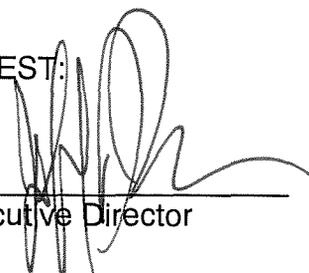
² Bluegrass Generation Motion for Rehearing at 4.

IT IS THEREFORE ORDERED that Bluegrass Generation's motion for rehearing and reconsideration is denied.

By the Commission

ENTERED
APR 25 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

Angela M Goad
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

Ed Staton
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

Joe F Childers
Joe F. Childers & Associates
300 Lexington Building
201 West Short Street
Lexington, KENTUCKY 40507

Honorable Dennis G Howard II
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

Honorable Allyson K Sturgeon
Senior Corporate Attorney
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

Honorable Lindsey W Ingram, III
Attorney at Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

Honorable Robert M Watt, III
Attorney At Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

Larry Cook
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

Susan Laureign Williams
Sierra Club
50 F Street, N.W., 8th Floor
Washington, DISTRICT OF COLUMBIA 20001

Gregory T Dutton
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

Rick E Lovekamp
Manager - Regulatory Affairs
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

Shannon Fisk
Earthjustice
1617 JFK Boulevard, Suite 1675
Philadelphia, PENNSYLVANIA 19103

Heather Napier
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

Matthew E Gerhart
Earthjustice
705 2nd Ave., Suite 203
Seattle, WASHINGTON 98104

Honorable Kendrick R Riggs
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KENTUCKY 40202-2828